



## IN THE CIRCUIT COURT OF MACON COUNTY, ALABAMA

AL JEROME ANDRY,

Plaintiff,

v.

TERESA SPEAR ATZBACH, ANDRES SUAREZ AND J & J DRIVE-AWAY, INC., Fictitious Defendants A – Z, the person, firm, corporation and or entity who was driving the vehicle on behalf of Andres Suarez and or J & J Drive-Away, Inc., at the time and place of the wreck made the basis of the suit; Fictitious Defendants A – Z the person, firm, corporation and or entity who was the owner, operator or controller of the vehicle driven by Andres Suarez and or J & J Drive-Away, Inc and or who employed Andres Suarez and/or J & J Drive-Away, Inc. at the time and place of the wreck made the basis of this suit, and who had such vehicle under their control and entrusted the operation of said vehicle to Andres Suarez and or J & J Drive-Away, Inc.; Fictitious Defendants A – Z, the person, firm, corporation and/or entity whose negligence and/or wantonness contributed in any way to the wreck made the basis of this suit;

Defendants.

CASE NO.: CV-2019-

**PLAINTIFF DEMANDS**  
**TRIAL BY JURY**

**COMPLAINT****JURISDICTIONAL PREAMBLE**

COMES NOW the Plaintiff, Al Jerome Andry, and in accordance with the *Rules of Civil Procedure*, files the following claim for relief against the Defendants, Teresa Spear Atzbach, Andres Suarez and J & J Drive Away, Inc. and Fictitious Defendants, A - Z, as follows:

1. The Plaintiff, Al Jerome Andry is a resident of Mobile County, Alabama.
2. The Defendant, Teresa Spear Atzbach is a resident of Macon County, Alabama.

3. The Defendant, Andres Suarez is a resident of Washington County, Maryland.
4. The Defendant, J & J Drive-Away, Inc. is a business, doing business in Johnson County, Kansas.
5. Jurisdiction and venue of this action are proper in Macon County, Alabama.
6. Fictitious Defendants A – Z are persons, firms, corporations and/or entities within the jurisdiction of this Court as set out in the style of this Complaint, whose true names are unknown to the Plaintiff at this time but will be substituted by amendment when discovered.
7. The amount in controversy is within the jurisdictional limits of this Honorable Court.

**FIRST CAUSE OF ACTION**  
**NEGLIGENCE**

Plaintiff, Al Jerome Andry, alleges against the Defendants, Teresa Spear Atzbach and Fictitious Defendants A – Z, separately and severally as follows:

8. The Plaintiff adopts and realleges all prior paragraphs as is fully set out herein. On or about October 16, 2018, the Plaintiff, Al Jerome Andry, was injured in a motor vehicle crash which occurred on the northbound side of Interstate 85 between Alabama Highway 81 and County Road 1132 in Macon County, Alabama. At that time and place, Defendant Teresa Spear Atzbach negligently failed to move her disabled vehicle from the right of way causing a traffic hazard which caused the Plaintiff to be struck causing serious damage and injury. The crash made the basis of this Complaint was the proximate result of the negligence of Teresa Spear Atzbach.

9. As the proximate result of the negligence of Teresa Spear Atzbach, the Plaintiff was caused to suffer the following injuries and damages: the Plaintiff was injured; the Plaintiff was permanently injured; the Plaintiff was caused to suffer pain; the Plaintiff was caused to suffer mental anguish and will suffer mental anguish in the future; the Plaintiff was caused to incur and

will incur in the future medical bills, hospital bills, and other medical expenses; the Plaintiff lost wages and will incur lost wages in the future; the Plaintiff lost the use and value of his vehicle and trailer.

WHEREFORE, the Plaintiff, Al Jerome Andry, demands judgment against the Defendant, Teresa Spear Atzbach and/or Fictitious Defendants A - Z for compensatory damages, and such other damages as allowed by the State of Alabama in an amount that is within the jurisdictional limits of this Honorable Court, plus interests and costs.

**SECOND CAUSE OF ACTION**  
**WANTONNESS**

Plaintiff, Al Jerome Andry, alleges against the Defendant, Teresa Spear Atzbach, and Fictitious Defendants A – Z, separately and severally as follows:

10. The Plaintiff adopts and realleges all prior paragraphs as if fully set out herein. On or about October 16, 2018, the Plaintiff was injured in a motor vehicle wreck which occurred on the northbound side of Interstate 85 between Alabama Highway 81 and County Road 1132 in Macon County, Alabama. At that time and place, Defendant, Teresa Spear Atzbach, wantonly failed to move her disabled vehicle from the right of way causing a traffic hazard which caused the Plaintiff to be struck causing serious damage and injury. The crash made the basis of this Complaint was the proximate result of the negligence of Teresa Spear Atzbach.

11. As the proximate result of the wantonness of Teresa Spear Atzbach, the Plaintiff was caused to suffer the following injuries and damages: the Plaintiff was injured; the Plaintiff was permanently injured; the Plaintiff was caused to suffer pain; the Plaintiff was caused to suffer mental anguish and will suffer mental anguish in the future; the Plaintiff was caused to incur and will incur in the future medical bills, hospital bills, and other medical expenses; the Plaintiff lost wages and will incur lost wages in the future; the Plaintiff lost the use and value of his vehicle.

WHEREFORE, the Plaintiff demands judgment against the Defendant, Teresa Spear Atzbach, and/or Fictitious Defendants A – Z for punitive, and such other damages as allowed by the State of Alabama in an amount that is within the jurisdictional limits of this Honorable Court, plus interest and costs.

**THIRD CAUSE OF ACTION**  
**NEGLIGENCE**

Plaintiff, Al Jerome Andry, alleges against the Defendants, Andres Suarez and Fictitious Defendants A – Z, separately and severally as follows:

12. The Plaintiff adopts and realleges all prior paragraphs as is fully set out herein. On or about October 16, 2018, the Plaintiff, Al Jerome Andry, was injured in a motor vehicle crash which occurred on the northbound side of Interstate 85 between Alabama Highway 81 and County Road 1132 in Macon County, Alabama. At that time and place, Defendant, Andres Suarez negligently failed to yield the right of way to the Plaintiff and struck the Plaintiff causing serious damage and injury. The crash made the basis of this Complaint was the proximate result of the negligence of Andres Suarez.

13. As a proximate result of the negligence of Andres Suarez, the Plaintiff was caused to suffer the following injuries and damages: the Plaintiff was injured; the Plaintiff was permanently injured; the Plaintiff was caused to suffer pain; the Plaintiff was caused to suffer mental anguish and will suffer mental anguish in the future; the Plaintiff was caused to incur and will incur in the future medical bills, hospital bills, and other medical expenses; the Plaintiff lost wages and will incur lost wages in the future; the Plaintiff lost the use and value of his vehicle.

WHEREFORE, the Plaintiff, Al Jerome Andry, demands judgment against the Defendants, Andres Suarez and/or Fictitious Defendants A – Z, for compensatory damages, and such other

damages as allowed by the State of Alabama in an amount that is within the jurisdictional limits of this Honorable Court, plus interests and costs.

**FOURTH CAUSE OF ACTION**  
**WANTONNESS**

Plaintiff, Al Jerome Andry, alleges against the Defendants, Andres Suarez and Fictitious Defendants A – Z, separately and severally as follows:

14. The Plaintiff adopts and realleges all prior paragraphs as if fully set out herein. On or about October 16, 2018, the Plaintiff was injured in a motor vehicle wreck which occurred on the northbound side of Interstate 85 between Alabama Highway 81 and County Road 1132 in Macon County, Alabama. At that time and place, Defendant, Andres Suarez, wantonly failed to yield the right of way to the Plaintiff and struck the Plaintiff causing serious damage and injury. The wreck made the basis of this Complaint was the proximate result of the wantonness of Andres Suarez.

15. As a proximate result of the wantonness of Andres Suarez, the Plaintiff was caused to suffer the following injuries and damages: the Plaintiff was injured; the Plaintiff was permanently injured; the Plaintiff was caused to suffer pain; the Plaintiff was caused to suffer mental anguish and will suffer mental anguish in the future; the Plaintiff was caused to incur and will incur in the future medical bills, hospital bills, and other medical expenses; the Plaintiff lost wages and will incur lost wages in the future; the Plaintiff lost the use and value of his vehicle.

WHEREFORE, the Plaintiff demands judgment against the Defendants, Andres Suarez and/or Fictitious Defendants A – Z for punitive, and such other damages as allowed by the State of Alabama in an amount that is within the jurisdictional limits of this Honorable Court, plus interest and costs.

**FIFTH CAUSE OF ACTION**  
**NEGLIGENT HIRING**

Plaintiff, Al Jerome Andry, alleges against the Defendant, J & J Drive-Away, Inc, and Fictitious Defendants A – Z, separately and severally as follows:

16. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

17. Defendant J & J Drive-Away, Inc. hired Defendant Andres Suarez as a driver and to transport cargo.

18. Defendant Andres Suarez lacked and continues to lack the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.

19. At the time Defendant Andres Suarez was hired, J & J Drive-Away, Inc. knew or should have known that Defendant Andres Suarez lacked the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.

20. As a proximate result of the negligence of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry, demands judgment against the Defendant, J & J Drive-Away, Inc., for compensatory damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**SIXTH CAUSE OF ACTION**  
**WANTON HIRING**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc, and Fictitious Defendants A – Z, separately and severally as follows:

21. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.
22. Defendant J & J Drive-Away, Inc. hired Defendant Andres Suarez as a driver and to transport cargo.
23. Defendant Andres Suarez lacked and continues to lack the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.
24. At the time Defendant Andres Suarez was hired, J & J Drive-Away, Inc. knew or should have known that Defendant Andres Suarez lacked the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.
25. At the time Defendant Andres Suarez was hired, J & J Drive-Away, Inc. knew or should have known that hiring Andres Suarez would likely cause injury to another person.
26. As a proximate result of the wantonness of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against Defendant J & J Drive-Away, Inc. for punitive damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**SEVENTH CAUSE OF ACTION**  
**NEGLIGENT TRAINING**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

27. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

28. Defendant J & J Drive-Away, Inc. had a duty as an employer and supervisor of Defendant Andres Suarez to give, supervise, and control the necessary and proper training of Andres Suarez so that he could carry out the job duties of a driver in a reasonable and safe manner.

29. Defendant J & J Drive-Away, Inc. failed to give, supervise, and control the necessary and proper training of Andres Suarez.

30. As a proximate result of the negligence of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for compensatory damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**EIGHTH CAUSE OF ACTION**  
**WANTON TRAINING**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

31. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

32. Defendant J & J Drive-Away, Inc. had a duty as employer and supervisor of Defendant Andres Suarez to give, supervise, and control the necessary and proper training of Andres Suarez so that he could carry out the job duties of a driver in a reasonable and safe manner.

33. Defendant J & J Drive-Away, Inc. failed to give, supervise, and control the necessary and proper training of Andres Suarez .

34. By failing to give Defendant Andres Suarez the proper training, Defendant J & J Drive-Away, Inc. knew or should have known that its actions would likely cause injury to another person.

35. As a proximate result of the wantonness of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for punitive damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**NINTH CAUSE OF ACTION**  
**NEGLIGENT RETENTION**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

36. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

37. Defendant J & J Drive-Away, Inc. knew or should have known that Defendant Andres Suarez lacked the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.

38. Despite this knowledge, Defendant J & J Drive-Away, Inc. failed to terminate Defendant Andres Suarez's job duties as a driver.

39. As a proximate result of the negligence of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for compensatory damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**TENTH CAUSE OF ACTION**  
**WANTON RETENTION**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

40. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

41. Defendant J & J Drive-Away, Inc. knew or should have known that Defendant Andres Suarez lacked the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.

42. Despite this knowledge, Defendant J & J Drive-Away, Inc. failed to terminate Defendant Andres Suarez's job duties as a driver.

43. By failing to terminate Defendant Andres Suarez's job duties as a driver, Defendant J & J Drive-Away, Inc. knew or should have known that its actions would likely cause injury to another person.

44. As a proximate result of the wantonness of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for punitive damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**ELEVENTH CAUSE OF ACTION**  
**NEGLIGENCE ENTRUSTMENT**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

45. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

46. Defendant J & J Drive-Away, Inc. knew or should have known that Defendant Andres Suarez lacked the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.

47. Despite this knowledge, Defendant J & J Drive-Away, Inc. allowed Defendant Andres Suarez to transport cargo for J & J Drive-Away, Inc.

48. As a proximate result of the negligence of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for compensatory damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**TWELFTH CAUSE OF ACTION**  
**WANTON ENTRUSTMENT**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc. and Fictitious Defendants A – Z, separately and severally as follows:

49. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

50. Defendant J & J Drive-Away, Inc. knew or should have known that Defendant Andres Suarez lacked the requisite skill, care, and expertise to carry out the job duties of a driver in a reasonable and safe manner.

51. Despite this knowledge, Defendant J & J Drive-Away, Inc. allowed Defendant Andres Suarez to transport cargo for J & J Drive-Away, Inc.

52. By entrusting the use and control of the vehicle to Defendant Andres Suarez, Defendant J & J Drive-Away, Inc. knew or should have known that its actions would likely cause injury to another person.

53. As a proximate result of the wantonness of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for punitive damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**THIRTEENTH CAUSE OF ACTION**  
**NEGLIGENT SUPERVISION**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

54. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

55. Defendant J & J Drive-Away, Inc. had a duty as employer and supervisor of Defendant Andres Suarez to supervise, correct, and monitor the employment of Defendant Andres Suarez in order to ensure that his work was performed in a reasonable and safe manner.

56. Defendant J & J Drive-Away, Inc. failed to supervise, correct, and monitor the employment of Defendant Andres Suarez.

57. As a proximate result of the negligence of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for compensatory damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

**FOURTEENTH CAUSE OF ACTION**  
**WANTON SUPERVISION**

Plaintiff, Al Jerome Andry, alleges against the Defendant J & J Drive-Away, Inc., and Fictitious Defendants A – Z, separately and severally as follows:

58. The Plaintiff adopts and incorporates by reference the relevant portions of all prior paragraphs.

59. Defendant J & J Drive-Away, Inc. had a duty as employer and supervisor of Defendant Andres Suarez to supervise, correct, and monitor the employment of Defendant Andres Suarez in order to ensure that his work was performed in a reasonable and safe manner.

60. Defendant J & J Drive-Away, Inc. failed to supervise, correct, and monitor the employment of Defendant Andres Suarez.

61. By failing to supervise, correct, and monitor the employment of Defendant Andres Suarez, Defendant J & J Drive-Away, Inc. knew or should have known that its actions would likely cause injury to another person.

62. As a proximate result of the wantonness of the Defendant, the Plaintiff was caused to suffer the following injuries and damages: he was injured in and about various portions of his body; he was caused to suffer physical pain and mental anguish, which he still suffers and will suffer in the future; he was caused to undergo medical treatment and care for his injuries and will be caused to undergo further such treatment in the future; he was caused to incur medical bills, hospital bills and other medical expenses in and about the care and treatment of his injuries and he will incur such medical expenses in the future; he was permanently injured.

WHEREFORE, Plaintiff Al Jerome Andry demands judgment against the Defendant J & J Drive-Away, Inc. for punitive damages, general damages, and such other damages as allowed by this Honorable Court, plus interest and costs.

/s/ WILL G. PHILLIPS

WILL G. PHILLIPS (PHI044)  
J. DAVID GREENE (GRE081)  
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Tuskegee, AL 36083  
(334) 727-4830

**THE DEFENDANT, TERESA SPEAR ATZBACH, TO BE SERVED BY PERSONAL  
SERVICE THROUGH THE MACON COUNTY, ALABAMA SHERIFF'S OFFICE AS  
FOLLOWS:**

**Teresa Spear Atzbach  
530 Union Camp Road  
Notasulga, AL 36866**

**THE DEFENDANT, ANDRES SUAREZ, TO BE SERVED BY PERSONALY SERVICE  
THROUGH THE WASHINGTON COUNTY, MARYLAND SHERIFF'S OFFICE AS  
FOLLOWS:**

**Andres Suarez  
108 Main Street  
Hancock, MD 21750**

**THE DEFENDANT, J & J DRIVE-AWAY, INC., TO BE SERVED BY PERSONALY  
SERVICE THROUGH THE JOHNSON COUNTY, KANSAS SHERIFF'S OFFICE AS  
FOLLOWS:**

**J & J Drive-Away, Inc  
7270 West 162nd Street  
Stilwell, KS 66085**